

### **REMARKS**

Applicant appreciates the consideration of the present application afforded by the Examiner. Claims 1-18 were pending prior to the Office Action. Claims 1, 12 and 13 are independent. Claims 1-7 and 9-18 have been amended. Favorable reconsideration and allowance of the present application are respectfully requested in view of the amendments and remarks made in this response.

#### **Interview Summary**

Applicant thanks the Examiner for the courtesies extended during the interview conducted on November 13, 2008. Despite our arguments to the contrary, the Examiner maintains that the combination of Deindl and Houvener teach independent claims 1 and 13 and a combination of Deindl, Houvener and Schneider teach independent claim 12. The Examiner has also broadly interpreted the claim language such that the references will read on the claims; i.e. the Examiner has interpreted a “group” to read on a single person.

#### **Claim Rejections Under 35 U.S.C. § 101**

Claims 1-18 have been rejected under 35 U.S.C. § 101 because the claimed invention is allegedly nonstatutory. In light of the amendments to claims 1-18, it is respectfully requested that the rejection be withdrawn.

#### **Claim Rejections Under 35 USC §103 – Deindl, Houvener**

Claims 1, 7, 9-11 and 13 stand rejected under 35 USC §103(a) as allegedly being unpatentable over Deindl et. al. (“Deindl”, U.S. 6,031,910) in view of Houvener et. al. (“Houvener”, U.S. 6,070,141). This rejection is respectfully traversed.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See

*M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

Independent claim 1, recites, *inter alia*, “**a wiring member which is formed in the common liquid chamber so as to stand upright from the electrode for the piezoelectric element in a direction substantially perpendicular to the second member, and is disposed in a position corresponding to the partition wall**”. *Tatsuya* does not teach the above-mentioned claim features. In fact, the Office Action admits this on Page 3 of the Office Action. Furthermore, *Usui* does not teach this claim feature as well. The passage recited by the Office Action to teach this claim feature simply discusses a common electrode, PZT, and a top electrode on an ink jet base (*See Column 10, Line 65 – Column 11, Line 4*). There is not even the mere mention in either *Tatsuya* or *Usui* of a wiring member which is formed in the common liquid chamber so as to stand upright from the electrode for the piezoelectric element in a direction substantially perpendicular to the second member, and is disposed in a position corresponding to the partition wall.

For at least the reasons stated above, independent claims 1 and 13 are patentably distinct from *Deindl* and *Houvener*. Claims 7, 9-11 are at least allowable by virtue of their dependency on corresponding allowable independent claim.

Accordingly, it is respectfully requested to withdraw this obviousness rejection of claims 1, 7, 9-11 and 13 based on *Deindl* and *Houvener*.

Claim Rejections Under 35 USC §103 – Deindl, Houvener, Schneider

Claims 2-6, 12 and 14-18 stand rejected under 35 USC §103(a) as allegedly being unpatentable over *Deindl et. al.* (“*Deindl*”, U.S. 6,031,910) in view of *Houvener et. al.* (“*Houvener*”, U.S. 6,070,141) further in view of *Schneider et. al.* (“*Schneider*”, U.S. 6,105,027). This rejection is respectfully traversed.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is

that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

For at least the reasons stated above, independent claim 12 is patentably distinct from Deindl, Houvener, and Schneider. Claims 2-6 and 14-18 are at least allowable by virtue of their dependency on corresponding allowable independent claim.

Accordingly, it is respectfully requested to withdraw this obviousness rejection of claims 2-6, 12 and 14-18 based on Deindl, Houvener, and Schneider.

Claim Rejections Under 35 USC §103 – Deindl, Houvener, Examiner’s Official Notice

Claim 8 stands rejected under 35 USC §103(a) as allegedly being unpatentable over Deindl et. al. (“Deindl”, U.S. 6,031,910) in view of Houvener et. al. (“Houvener”, U.S. 6,070,141) further in view of Examiner’s Official Notice. This rejection is respectfully traversed.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

The Examiner fails to provide a reference for the feature “storing apparatus is retained by the owner”. The Examiner instead takes Official Notice stating that “it is old and well known in the art to make an information storing apparatus portable such that it can be retained by the owner” (*See Office Action, Page 11*).

Applicants challenge the Examiner’s use of Official Notice. In the context of the claimed invention, it is not obvious that this information will be portable and accessible to multiple persons.

Accordingly, it is respectfully requested to withdraw this obviousness rejection of claims 8 based on Deindl, Houvener, and Examiner's Official Notice.

**CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael K. Mutter Reg. No. 29,680 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: December 4, 2008

Respectfully submitted,

By 

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